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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
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11 MATHEW KING,

12 Plaintiff,

13 v.

14 GRAPHIC PACKAGING  
15 INTERNATIONAL, LLC,  
16 ROBERTO VENTURA, and  
DOES 1-100, inclusive,

17 Defendants.  
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Case No. 8:24-cv-01391-JWH-PD

**ORDER DENYING PLAINTIFF'S  
MOTION TO REMAND [ECF  
No. 16]**

1 Before the Court is the motion of Plaintiff Matthew King to remand this  
2 action to Orange County Superior Court.<sup>1</sup> Defendants Graphic Packaging  
3 International, LLC (“GPI”) and Roberto Ventura oppose the Motion,<sup>2</sup> and the  
4 matter is fully briefed.<sup>3</sup> The Court concludes that this matter is appropriate for  
5 resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. For the reasons  
6 detailed herein, the Court **DENIES** the Motion.

### 7 **I. BACKGROUND**

8 King originally filed this action in Orange County Superior Court in May  
9 2024.<sup>4</sup> King asserts the following 12 state and common law claims for relief:

- 10 • age and disability related discrimination in violation of California’s Fair  
11 Employment and Housing Act (“FEHA”), Cal. Gov’t Code §§ 12940 *et*  
12 *seq.*, against GPI;
- 13 • age and disability related harassment in violation of FEHA against GPI;
- 14 • failure to prevent harassment in violation of FEHA against GPI;
- 15 • retaliation in violation of FEHA against GPI;
- 16 • failure to provide a reasonable accommodation in violation of FEHA  
17 against GPI;
- 18 • failure to engage in the interactive process in violation of FEHA against  
19 GPI;
- 20 • retaliation in violation of the California Family Rights Act (“CFRA”),  
21 Cal. Gov’t Code § 12945.2, against GPI;
- 22 • violation of Cal. Labor Code § 1102.5 against GPI;

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24 <sup>1</sup> Pl.’s Mot. to Remand (the “Motion”) [ECF No. 16].

25 <sup>2</sup> Defs.’ Opp’n to Motion (the “Opposition”) [ECF No. 18].

26 <sup>3</sup> Pl.’s Reply in Supp. of Motion (the “Reply”) [ECF No. 19].

27 <sup>4</sup> *See* Notice of Removal (the “Notice of Removal”) [ECF No. 1] ¶ 1; *see*  
28 *also id.*, Ex. B (the “Complaint”) [ECF No. 1-1].

- 1 • violation of Cal. Labor Code § 232.5 against GPI;
- 2 • violation of Cal. Labor Code §§ 6310 & 6311 against GPI;
- 3 • wrongful termination in violation of public policy against GPI; and
- 4 • intentional infliction of emotional distress against both GPI and Ventura.<sup>5</sup>

5 Although all of King’s claims for relief are based upon state law,  
6 Defendants removed the action to this Court pursuant to 28 U.S.C. §§ 1441 &  
7 1446, asserting federal question jurisdiction because—Defendants allege—  
8 King’s claims require the interpretation of a collective bargaining agreement, so  
9 they are preempted by Section 301 of the Labor Management Relations Act, 29  
10 U.S.C. § 185 (the “LMRA”). King disagrees, and he filed this Motion  
11 accordingly.<sup>6</sup>

## 12 II. LEGAL STANDARD

13 Federal courts are courts of limited jurisdiction. Accordingly, “[t]hey  
14 possess only that power authorized by Constitution and statute.” *Kokkonen v.*  
15 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). “The right of removal is  
16 entirely a creature of statute and a suit commenced in a state court must remain  
17 there until cause is shown for its transfer under some act of Congress.”  
18 *Syngenta Crop Prot., Inc. v. Henson*, 537 U.S. 28, 32 (2002) (internal quotation  
19 marks omitted). When Congress has acted to create a right of removal, those  
20 statutes, unless otherwise stated, are strictly construed against removal  
21 jurisdiction. *See id.*

22 “Only state-court actions that originally could have been filed in federal  
23 court may be removed to federal court by the defendant.” *Caterpillar Inc. v.*  
24 *Williams*, 482 U.S. 386, 392 (1987). To remove an action to federal court under  
25 28 U.S.C. § 1441, the removing defendant “must demonstrate that original  
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27 <sup>5</sup> See generally Complaint.

28 <sup>6</sup> See generally Motion.

1 subject-matter jurisdiction lies in the federal courts.” *Syngenta*, 537 U.S. at 33.  
2 Accordingly, a defendant may remove civil actions in which either (1) a federal  
3 question exists; or (2) complete diversity of citizenship between the parties  
4 exists and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. §§ 1331 &  
5 1332. “Complete diversity” means that “each defendant must be a citizen of a  
6 different state from each plaintiff.” *In re Digimarc Corp. Derivative Litigation*,  
7 549 F.3d 1223, 1234 (9th Cir. 2008).

8 “The party asserting federal subject matter jurisdiction bears the burden  
9 of burden of proving its existence.” *Chandler v. State Farm Mut. Auto. Ins. Co.*,  
10 598 F.3d 1115, 1122 (9th Cir. 2010). “The presence or absence of federal-  
11 question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which  
12 provides that federal jurisdiction exists only when a federal question is presented  
13 on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar*, 482 U.S.  
14 at 392. “A defense is not part of a plaintiff’s properly pleaded statement of his  
15 or her claim.” *Rivet v. Regions Bank of Louisiana*, 522 U.S. 470, 475 (1998).  
16 “The Ninth Circuit ‘strictly construe[s] the removal statute against removal  
17 jurisdiction,’ and ‘[f]ederal jurisdiction must be rejected if there is any doubt as  
18 to the right of removal in the first instance.’” *Leon v. Gordon Trucking, Inc.*, 76  
19 F. Supp. 3d 1055, 1060 (C.D. Cal. 2014) (citation omitted). In other words, any  
20 doubt regarding the existence of subject matter jurisdiction must be resolved in  
21 favor of remand. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

### 22 III. ANALYSIS

23 The parties agree that *Burnside v. Kiewit Pac. Corp.*, 491 F.3d 1053 (9th  
24 Cir. 2007), sets the standard for removal pursuant to LMRA preemption. The  
25 *Burnside* court held as follows:

26 [F]irst, [the Court must conduct] an inquiry into whether the  
27 asserted cause of action involves a right conferred upon an employee  
28 by virtue of state law, not by a [collective bargaining agreement]. If

1 the right exists solely as a result of the [collective bargaining  
2 agreement], then the claim is preempted, and our analysis ends  
3 there. If, however, the right exists independently of the [collective  
4 bargaining agreement], we must still consider whether it is  
5 nevertheless “substantially dependent on analysis of a collective-  
6 bargaining agreement.” If such dependence exists, then the claim is  
7 preempted by section 301 [of the LMRA]; if not, then the claim can  
8 proceed under state law.

9 *Id.* at 1059–60 (quoting *Caterpillar*, 482 U.S. at 394) (internal citations omitted).

10 In his Complaint, King alleges: “In late February, [King] was informed  
11 by [name] that he was going to be demoted from First Press Operator to Second  
12 Press Operator with a reduction in pay from \$36.66/hr. to \$32.51/hr. ***The***  
13 ***demotion violated Teamsters Handbook Section 14.2, 16, and 16.2.2.***”<sup>7</sup> The  
14 notion that King’s demotion was wrongful—as must be determined pursuant to  
15 the collective bargaining agreement—underlies many of King’s claims for  
16 relief.<sup>8</sup>

17 The Court also notes that King’s Complaint directly implicates non-  
18 LMRA federal questions that Defendants did not address. For example, King  
19 alleges as follows:

20 [d]uring the course of [his] employment, [King] disclosed  
21 information regarding conduct and/or actions by Defendants’  
22 employees/supervisors that [King] reasonably believed  
23 constitute[ed] a violation of state or federal statute, or a violation of  
24 or noncompliance with a local, state, or federal rule or regulation . . .  
25 [including, with respect to federal law,] . . . Title VII of the [federal]

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27 <sup>7</sup> Complaint ¶ 33 (emphasis added).

28 <sup>8</sup> *See, e.g., id.* at ¶¶ 53, 118, & 126.

1 Civil Rights Act; . . . the Family Medical Leave Act; the Fair Labors  
2 Standards Act; [and the Health Insurance Portability and  
3 Accountability Act].<sup>9</sup>

4 King also reports that he filed a complaint about Defendants’ allegedly unlawful  
5 conduct, including under the above-listed federal laws, with agencies including  
6 the National Labor Relations Board.<sup>10</sup> Further, King avers that Defendants  
7 terminated him because he “refused to participate in an activity *that would have*  
8 *resulted in a violation of state or federal [law].*”<sup>11</sup> And, in his eleventh claim for  
9 relief, King asserts that his termination was effected in violation of public policy  
10 because Defendants violated various state and federal laws including “Title VII  
11 of the [federal] Civil Rights Act; . . . the Family Medical Leave Act; the Fair  
12 Labors Standards Act; [and the Health Insurance Portability and Accountability  
13 Act].”<sup>12</sup>

14 In his Motion, King argues that his claims are not substantially dependent  
15 upon the collective bargaining agreement, so removal pursuant to LMRA  
16 preemption was improper.<sup>13</sup> Specifically, King avers that “whether Defendants  
17 failed to follow the grievance policies [dictated by the collective bargaining  
18 agreement], or whether any violation of the [collective bargaining agreement]  
19 occurred is irrelevant” to the resolution of his claims and that “there is no  
20 dispute regarding the meaning of any provision of the [collective bargaining  
21 agreement].”<sup>14</sup>

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23 <sup>9</sup> *Id.* at ¶ 114.

24 <sup>10</sup> *Id.* at ¶ 116.

25 <sup>11</sup> *Id.* at ¶ 117 (emphasis added).

26 <sup>12</sup> *Id.* at ¶ 141.

27 <sup>13</sup> *See generally* Motion.

28 <sup>14</sup> *Id.* at 8:8-28.

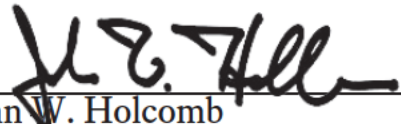
1 Because King's claims for relief are "substantially dependent upon"  
2 federal labor laws and the interpretation of a collective bargaining agreement,  
3 this Court possesses subject matter jurisdiction over this case, and remand is  
4 inappropriate. *See Burnside*, 491 F.3d at 1059-60.

5 **IV. DISPOSITION**

6 For the foregoing reasons, the Court hereby **ORDERS** that King's instant  
7 Motion to remand [ECF No. 16] is **DENIED**.

8 **IT IS SO ORDERED.**

9  
10 Dated: January 2, 2025

  
11 John W. Holcomb  
12 UNITED STATES DISTRICT JUDGE  
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